
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA,
Plaintiff,

v.

STEVE MARK SWENA,
Defendant.

MEMORANDUM DECISION AND
ORDER DISMISSING DEFENDANT'S
MOTION FOR TIME CREDIT

Case No. 2:03-CR-933 TS
District Judge Ted Stewart

This matter is before the Court on Defendant Steve Mark Swena's Motion Under 18 U.S.C. § 3585 for Time Credit. For the reasons discussed below, the Court will dismiss Defendant's Motion for lack of jurisdiction.

Defendant was indicted on December 4, 2003. Defendant represents that at his arraignment he elected to stay in federal custody and was remanded to the United States Marshal Service. Defendant asserts that the Bureau of Prisons ("BOP") has not given him credit from his arraignment through October 6, 2004. Defendant seeks an order from this Court crediting that time toward his sentence.

18 U.S.C. § 3585 provides that "[a] defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences . . . that has not been credited against another sentence."¹ The BOP has

¹ 18 U.S.C. § 3585.

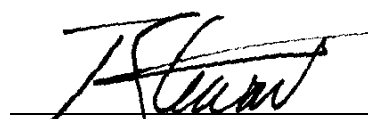
long been responsible for computing sentence credit under § 3585(b).² “[O]nly the Attorney General through the Bureau of Prisons has the power to grant sentence credit in the first instance.”³ Until the Attorney General, through the BOP, makes a § 3585(b) determination, the matter is not ripe for review and the Court lacks jurisdiction.⁴

Defendant must first exhaust all of his administrative remedies with the BOP before he seeks judicial intervention regarding the calculation of credit for time served on his sentence. Once he has done so, if he is not satisfied with the BOP’s resolution of his request for sentence credit, he may raise the issue by filing a petition under 28 U.S.C. § 2241. Such petition must be filed in the judicial district where Defendant is held in custody at the time such a Petition is filed. It is therefore

ORDERED that Defendant’s Motion for Credit for Time Served (Docket No. 957) is DISMISSED.

DATED this 18th day of June, 2014.

BY THE COURT:



Ted Stewart
United States District Judge

² *United States v. Wilson*, 503 U.S. 329, 335 (1992) (“After a district court sentences a federal offender, the Attorney General, through the BOP, has the responsibility for administering the sentence.”).

³ *United States v. Jenkins*, 38 F.3d 1143, 1144 (10th Cir. 1994).

⁴ *Id.*